



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

Testimony

Insurance and Real Estate Committee

March 5, 2015

Senate Bill No. 1026 (Raised) An Act Concerning the Regulation of Risk Retention Groups.

Senator Crisco, Representative Megna, and members of the Insurance and Real Estate Committee, the Insurance Department thanks the Committee for raising Senate Bill No. 1026, An Act Concerning the Regulation of Risk Retention Groups.

This Insurance Department proposal will amend provisions within Chapter 698e concerning risk retention groups to closely track with provisions of the National Association of Insurance Commissioners (NAIC) Model Risk Retention Act.

In 1987, Connecticut enacted statutes based on the NAIC Model Risk Retention Act to regulate the formation and operation of risk retention groups (RRGs) formed pursuant to the provisions of the federal Liability Risk Retention Act of 1986 (LRRRA). LRRRA allows businesses with similar risk exposures to create their own insurance company, a RRG, to self-insure their commercial liability risks on a group basis and establishes a regulatory framework that partially preempts state insurance laws. LRRRA allows the RRG to be regulated primarily by its chartering (domiciliary) state even when the RRG sells insurance coverage in other states.

The NAIC Model Risk Retention Act has been revised periodically and most recently, in 2011 to establish corporate governance standards for RRGs. These standards were developed by the NAIC following a 2005 report to the U.S. Congress by the Government Accountability Office that the regulation of RRGs was deficient because there were no clear regulatory requirements for RRGs to operate using sound corporate governance principles. Last year, the NAIC Financial Regulation Standards and Accreditation Program revised its standards to require states to have laws that are substantially similar to the NAIC Model Risk Retention Act provisions governing corporate governance principles (NAIC Model Act § 3.D.) by January 1, 2017. These corporate governance standards are contained in Section 3 of this legislation.

The other proposed changes in Raised Bill 1026 simply update provisions in Connecticut law to track with the NAIC Model Act and in doing so, further enhances the effectiveness of the Department's regulation of RRGs for the protection of Connecticut consumers.

Section 1. - Amends the definition “plan of operation or a feasibility study” in Conn. Gen. Stat. § 38a-250(8) to specify that the analysis contained in any such plan or study shall include activities for each state in which the risk retention group (RRG) intends to operate.

Section 2. - Amends Conn. Gen. Stat. § 38a-251 concerning the licensure and regulation of RRGs chartered in this state. New provisions in **subsection (b)** will require RRGs to submit for the Commissioner’s approval an appropriate revision within ten days of any subsequent material change in any item of the plan of operation or in the feasibility study, and the RRG may not offer any additional kinds of liability insurance in any state until such revision is approved. New provisions in **subsection (c)** will require RRGs to provide the Commissioner at the time of filing its application for a charter, information on the identity of the initial members of the RRG, the RRG organizers, persons who will provide administrative services or otherwise influence or control coverages to be afforded, and the states in which the RRG intends to operate.

Section 3. – Adds new provisions in **subsection (d)** will establish corporate governance standards (a majority of independent directors on the RRG board of directors, audit committee, adoption and disclosure of governance standards, adoption of business conduct and ethics for officers, directors and employees, and reporting of material non-compliance of such standards to the Commissioner.

Section 4. – Adds new provisions in Conn. Gen. Stat. § 38a-252 to require a RRG to submit to the commissioner a copy of any material revisions to its plan of operations or feasibility study submitted to its state of domicile.

Sections 5 and 6. – make minor changes to Conn. Gen. Stat. § 38a-253 concerning submission of information to the Commissioner from RRGs domiciled outside Connecticut, and Conn. Gen. Stat. § 38a-255 concerning notices of no guaranty association coverage on policies issued by RRGs.

The Insurance Department asks that the Insurance and Real Estate Committee act favorably on this bill. In doing so, the Department asks the Committee to revise S.B. 1026 to the following minor revisions to conform with the provisions of the NAIC Model Act:

In line 202, the reference to “member” should be changed to “insured”.

In line 205, the reference to “member” should be changed to “insured”.

In line 254, the reference to “manager” should be changed to “captive manager”.

In line 268, the reference to “manager” should be changed to “captive manager”.

In line 328, the reference to “owners” should be changed to “members”.

In line 329, the reference to “members” should be changed to “insureds”.

In line 342, the reference to “manager” should be changed to “captive manager”.S

About the Connecticut Insurance Department: The mission of the Connecticut Insurance Department is to protect consumers through regulation of the industry, outreach, education and advocacy. The Department recovers an average of more than \$4 million yearly on behalf of consumers and regulates the industry by ensuring carriers adhere to state insurance laws and regulations and are financially solvent to pay claims. The Department’s annual budget is funded through assessments from the insurance industry. Each year, the Department returns an average of \$100 million a year to the state General Fund in license fees, premium taxes, fines and other revenue sources to support various state programs, including childhood immunization.